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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,959	11/19/2003	Bogdanovich Alexander	7100-038	6455
4678 MACCORD M	7590 01/08/200 ASON PLLC	EXAMINER		
300 N. GREEN	E STREET, SUITE 16	JOHNSON, JENNA LEIGH		
P. O. BOX 2974 GREENSBORG			ART UNIT	PAPER NUMBER
			1794	
			MAIL DATE	DELIVERY MODE
			01/08/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Application No. Application Application Application Application ALEXANDER ET AL.								
## Definition Provided Provi		Application No.	Applicant(s)					
Janna-Leigh Johnson 1794		10/716,959	ALEXANDER ET AL.					
The MALLING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MALLING DATE OF THIS COMMUNICATION. Fallowson of time may be available useful the posisions of 37 CR 1.1369, in one well, however, may a neply be timely field. ### 30 period for reply is appointed useful the posisions of 37 CR 1.1369, in one well, however, may a neply be timely field. ### 30 period for reply is appointed above, the macraman statistics period is apply and will expire \$3.00 MONTH's from the nating date of this communication. ### 50 period for reply is appointed by the part of the application is provided part that their three months where the nating date of this communication, where it strength field, may reduce any visual property in the order ordered period for profit by addition, and the application is provided by the communication of the provided period for profit by \$4.00 period. #### 51 period for reply is application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. ### 52 period for Claims ### 53 period for Claims ### 54 period for the above claim(s) \$2-10, 13-24, 26-29 and 31-40 is/are withdrawn from consideration. ### 54 period for profit is application in so bjected to by the Examiner. ### 55 period for profit is application in so bjected to by the Examiner. ### 54 period for profit is application in so bjected to by the Examiner. ### 54 period for the profit is application in the drawing(s) is belied to by the Examiner. ### 55 period for profit is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). ### 54 period for profit is application from the International Bureau (PCT Rule 17.2(a)). ### 54 period for profit is profit in the profit is documents have been received in this National Stage a	Office Action Summary	Examiner	Art Unit					
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Extraction of time rary is available under the problems of 37 CFR 1.136(a). In no event, however, may a raryly be timely liked - Extraction of timely raryly to available under the problems of 37 CFR 1.136(a). In no event, however, may a raryly be timely liked - Extraction of timely raryly to available under the problems of 37 CFR 1.136(a). In no event, however, may a raryly be timely liked - Extraction of the set of extended period for rapily will. by statute, cause the application to become APAHCONED (35 U.S. § 133). - Fallows to reply within the set of extended period for rapily will. by statute, cause the application to become APAHCONED (35 U.S. § 133). - Fallows to reply within the set of extended period for rapily will. by statute, cause the application to become APAHCONED (35 U.S. § 133). - Fallows to reply within the set of extended period for rapily will. by statute, cause the application to become APAHCONED (35 U.S. § 133). - Fallows the set of the set of extended period for rapily will be statute and the form the mailing date of this communication, even if transly fleed, may reduce any extended pattern adjustment. Set of formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. - Disposition of Claims - All Claim(s) 1.40 is/are pending in the application. - Application of Claims - All Claim(s) 1.7.11.12.25 and 30 is/are rejected. - Claim(s) 1.7.11.12.25 and 30 is/are rejected to by the Examiner. - Application Papers - Claim(s) 1.7.11.12.25 and 30 is/are rejected to by the Examiner. - Application Papers - Claim(s) 1.7.11.12.25 and 30 is/are rejected to by the Examiner. - Application Papers - Claim(s) 1.7.11		Jenna-Leigh Johnson	1794					
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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 31, 2007 has been entered.

Response to Amendment

2. The Amendment submitted on September 24, 2007, has been entered. Claim 1 has been amended. Therefore, the pending claims are 1 - 40. Claims 8 - 10, 13 - 24, 26 - 29, and 31 - 40 are withdrawn from further consideration as being drawn to a nonelected invention.

Claim Rejections - 35 USC § 102

- 3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
- 4. Claims 1-7, 11, and 25 stand rejected under 35 U.S.C. 102(a and e) as being anticipated by Hill et al. (US 2003/0211797) for the reasons of record.
- 5. Claims 1 7, 11, 12, 25, and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Ebbesen et al. (6,856,715).

Ebbesen et al. is drawn to a composite fabric comprising electronic or optoelectronic circuitry for implementing electronic or optical functions (column 1, lines 10 - 20). The circuits are produced by weaving, knitting, crocheting, etc. (column 6, lines 50 - 60). As shown in figure 3d, the fabric can comprise separate parallel layers which are connected together with a z-direction yarn. The components in the fabric cause the fabric to exhibit varying chemical or electrical properties to create a sensor or

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detector within the fabric structure (column 7, lines 5 - 24). The fabric can be made by using conductive and nonconductive fibers as well as optical fibers to create an integrated structure (column 6, lines 5 - 15).

With regards to the limitation of when the system, device, or network is incorporated into the fabric structure, these limitations are considered method limitations in a product-by-process claim. Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same or an obvious variant from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. *In re Thorpe*, 227 USPQ 964, 966 (Fed. Cir. 1985). The burden has been shifted to the Applicant to show unobvious differences between the claimed product and the prior art product. *In re Marosi*, 218 USPQ 289, 292 (Fed. Cir. 1983). In the present case, the final product regardless of when the network, system, or device is added, would be a composite woven fabric with a system, network, or device integrated into the structure of the fabric. Ebbesen et al. teaches that the circuitry (i.e., the network, device, or system) is integrated into the structure of the fabric in the final product. Thus, Ebbesen et al. teaches the claimed final product. Therefore, claims 1 - 7, 11, 12, and 30 are anticipated.

With regard to claim 25, the claim recites limitations with regards to how the fabric is used. It has been held that a recitation with respect to the manner in which a claimed product is intended to be employed does not differentiate the claimed product from a prior art product satisfying the claimed structural limitation. *Ex parte Masham*, 2 USPQ2d 1647 (1987). Therefore, how the fabric is used is not given patentable weight. Claim 25 is rejected along with claim 1.

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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7. Claims 12 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hill et al. in view of Jayaraman et al. for the reasons of record.

Response to Arguments

8. Applicant's arguments filed September 24, 2007 have been fully considered but they are not persuasive. The applicant argues that the yarns which travel in the Z-direction to connect the multiple layers together do not count as z-direction yarns because they travel in the x- or y-direction as well. However, there is no requirement in the design of general three-dimensional woven fabrics that a zdirection yarn must only travel in the z-direction or exclude yarns which travel in both the z-direction and the x- or y-direction from being considered z-direction yarns. The yarns which Hill et al. teaches connect the layers together travel part of the time in the z-direction of the fabric and connect the layers together. Thus, the read on the claimed z-direction yarn. With regard to the amended claim 1 which requires that the fabric include a third system of fibers which travel in a third direction, again the yarns are not excluded from traveling in other directions. Thus, the yarns which connect the layer together in the vertical direction are considered the third system of yarns. Further, it is noted that the applicant's own drawings show that the z-direction yarns do not solely travel in the z-direction, but spend some time in the x- or y- direction when the yarns switch directions and cross over or cross under the x- and y- yarns. The fact that the weave pattern in Hill et al. is more open and the z-direction yarns are not solely in the zdirection does not exclude the yarns from reading on the claimed z-direction yarns. Therefore, the rejection is maintained.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Johnson whose telephone number is (571) 272-1472. The examiner can normally be reached on Monday - Friday (8:00 - 5:30).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena

Dye can be reached on (571) 272-3186. The fax phone number for the organization where this

application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application

Information Retrieval (PAIR) system. Status information for published applications may be obtained

from either Private PAIR or Public PAIR. Status information for unpublished applications is available

through Private PAIR only. For more information about the PAIR system, see http://pair-

direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer

Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR

CANADA) or 571-272-1000.

jlj

January 7, 2008

/Jenna-Leigh Johnson/ Primary Examiner, Art Unit 1794